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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,462	04/27/2001	Sarah Bell	36-1444	8075

7590 07/15/2004

Nixon & Vanderhye
 8th Floor
 1100 North Glebe Road
 Arlington, VA 22201-4714

EXAMINER

PATEL, ASHOKKUMAR B

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/830,462	Applicant(s) BELL ET AL.	
	Examiner Ashok B. Patel	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04/27/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/17, 7/14/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Application Number 09/830, 462 was filed on 04/27/2001. Claims 1-22 are subject to examination.

Specification

2. The disclosure is objected to because of the following informalities:
 - a. The abstract of the disclosure is objected to because it exceeds 150 words in length. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

- b. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.

(b) CROSS-REFERENCE TO RELATED APPLICATIONS.

(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

(d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

- c. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).
- d. The use of the trademark "RealPlayerG2" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.
- e. Claim 6 objected to because of the following informalities:

Claim 6 recites "a method according to wherein the user oriented data for the or each media stream is generated...". This seems to imply that the claim is a dependent claim of the independent claim 1. Also, Examiner is

unable to interpret the portion of the phrase: ... data for the or each media stream..." and "providing a link between the base module and the or each media module..." For the purpose of this office action the claim was considered to be a dependent claim of claim 1 and the later indicated phrase was read as "...user oriented data for each media stream...".

Appropriate correction is required.

- f. Claim 12 is objected to because of the following informalities:
Grammatical error ; "is" is to be replaces by "are". Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

- a. Claims 21 and 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Both of these claims recite computer readable storage medium, failing to recite any hardware necessary to render the claims tangible.

Claim 22 only requires a storage medium and is absent computer readability or execution.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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- a. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to how a storage medium is containing the system verses the storage medium is either a component or a part of the system.
- b. Claim 6 recites the limitation "and the or each media module" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

- a. Claim 6 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of copending Application No. 09/830, 461. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Avaro et al. ("The MPEG-4 systems and description languages: A way ahead in audio visual information representation", Dated May 1, 1997)(hereinafter Avaro)

Referring to claim 1,

The reference teaches a method of announcing a description of a media session, the method comprising the steps of:

generating a session description comprising media oriented data necessary for a user to receive at least one media stream of a media session, said media oriented data identifying one or more application program components or requirements for one or more application programs or configurations of application program components necessary to participate in said media session; and, (Page 387, section 2.2, pages 388, section 2.2.2,"Flexible Terminals")

announcing the media session by making the session description available to potential recipients of the media session. (Page 391, section 2.4, "communication structure".)

Referring to claim 2,

The reference teaches a method according to claim 1 wherein said media oriented data prescribes a number of application program components to be used in order to build an application to participate in the media session. (Page 387, section 2.2, "The MPEG-4

standard requires a more flexible representation of these templates, so that they can be transmitted and allow for configuring the receiving system.”)

Referring to claim 3,

The reference teaches a method according to claim 2 wherein the media oriented data prescribes a manner in which the components are to be configured to build the application program. (Page 388, section 2.2.2)

Referring to claims 4 and 5,

The reference teaches a method according to claim 1 wherein the session description is generated using a structured data format. (page 389, section 2.2.2.2). It is well known in the art that XML allows for self-description, i.e., allows description and structure of description in the same format and document. Use of XML also allows linking of collections of data by importing external document type definitions using description schemes. Additionally, XML is highly modular and extensible. XML provides a self-describing and extensible mechanism. Another major advantage of using XML is that it allows the descriptions to be self-describing, in the sense that they combine the description and the structure of the description in the same format and document.

Referring to claim 6,

The reference teaches a method according to wherein the user oriented data for the or each media stream is generated in a one or more respective media modules within the session description, and said method comprises the further steps of: generating a base module comprising user oriented data relevant to the media session; providing a link between the base module and the or each media module; announcing the media

session by making the base module available to said potential recipients; wherein the link to the or each media module permits a user to access the or each media module subsequent to the base module. (page 394, Fig.5, elements "elementary stream", "syntactic Decoded stream", "primitive AV objects", and "composition Informations").

Referring to claim 7,

The reference teaches a method of configuring a platform for receiving a media session (page 388, section 2.2.2, "Flexible terminals"), said method comprising the steps of:

receiving a session description of a media session, said session description comprising media oriented data necessary for a platform to receive at least one media stream of a media session, said media oriented data identifying one or more application program components or requirements for one or more application programs or configurations of application program components necessary to participate in said media session; (page 391, section 2.4, "communication structure").

processing said session description to determine an appropriate application program configuration from a list of available application programs or program components; (page 392, section 2.5 "processing stages in the MPEG-4 terminal")

configuring a respective media session application program from said list of available programs for participation in said media session. (page 399, section 3.3, "the flexible approach to composition").

Referring to claims 8 and 9,

The reference teaches a method according to claim 7 wherein said media oriented data prescribes a number of program components to be used, and wherein said step of

processing said session description comprises the step of selecting said prescribed components from said list, and a method according to claim 8 wherein the media oriented data prescribes a manner in which the components are to be configured, and the step of configuring said respective media session application program comprises the step of configuring said selected components according to said prescribed manner. (page 391, section 2.4, "communication structure")

Referring to claim 10,

The reference teaches a method according to claim 7 further comprising the steps of receiving network data relating to characteristics of the network over which said media session is to be transmitted and wherein the respective media session application is configured according so said network data. (page 392, section 2.4, "connection").

Referring to claim 11,

The reference teaches a method according to claims 7 further comprising the steps of receiving terminal data relating to characteristics of the terminal on which said media session is to be received and wherein the respective media session application is configured according so said terminal data. (page 392, section 2.4, "configuration").

Referring to claim 12,

The reference teaches a method according to claim 10 wherein said network data or terminal data or both is monitored during the media session and the media session description is modified in response to changes to the monitored data. (page 392, section 2.4, "learning").

Referring to claim 13,

The reference teaches a method according to claim 7 further comprising the steps of receiving user profile data relating to preferences of a user of the media session and wherein the respective media session application is configured according to said user profile data. ((page 391, section 2.4, "use of upstream channel ").

Referring to claims 14 and 15,

The reference teaches a method according to claim 7 wherein the session description further comprises data defining a quality of service policy for receiving the media session and the respective media session application is configured according to said quality of service policy, and a method according to claim 7 wherein the session description further comprises data defining one or more remote services necessary for participation in said media session and the respective media session application is configured according to requirements of said one or more remote services. (page 388, section 2.2.2, page 391, section 2.4 and page 392, "configuration").

Referring to claims 16 and 17,

The reference teaches a method according to claim 7 at least the session description is generated using a structured data format. (page 389, section 2.2.2.2). It is well known in the art that XML allows for self-description, i.e., allows description and structure of description in the same format and document. Use of XML also allows linking of collections of data by importing external document type definitions using description schemes. Additionally, XML is highly modular and extensible. XML provides a self-describing and extensible mechanism. Another major advantage of using XML is that it

allows the descriptions to be self-describing, in the sense that they combine the description and the structure of the description in the same format and document.

Referring to claim 18,

The reference teaches a method according to claim 7 wherein the step of processing the session description comprises the step of parsing the session description using a terminal session control to determine an appropriate application program configuration form a list of available application programs or program components; selecting one or more media streams identified in the session description; and connecting the or each selected media stream to one or more application programs or components in said configuration by means of a session control configured for managing media stream connections for the or each application program or component. (Page 394, Fig.5, page 392, section 2.5)

Referring to claim 19,

Claim 19 is a claim to a system that carries out the method steps of claim 1. Therefore claim 19 is rejected for the reasons set forth for claim 1.

Referring to claim 20,

Claim 20 is a claim to a system that carries out the method steps of claim 7. Therefore claim 20 is rejected for the reasons set forth for claim 7.

Referring to claim 21,

Claim 21 is a claim to a computer readable storage medium containing executable instructions for performing the method of claim 1. Therefore claim 21 is rejected for the reasons set forth for claim 1.

Referring to claim 22,

Claim 22 is a claim to a computer readable storage medium containing the system according to claim 19. Therefore claim 22 is rejected for the reasons set forth for claim 19.

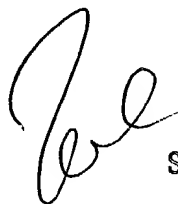
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (703) 305-2655. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abp



JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100